

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re: KELLY A. BORHAM, Debtor, FIFTH THIRD BANK, Movant, v. KELLY A. BORHAM WILLIAM C. MILLER, Ch. 13 Trustee, Respondents.	Bankruptcy No. 18-12591-amc Chapter 13 Document No.
--	---

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

AND NOW, comes Movant, Fifth Third Bank, by and through its undersigned counsel, Bernstein-Burkley, P.C., and files this Motion for Relief from the Automatic Stay (the “Motion”), representing as follows:

The Parties

1. Respondent, Kelly A Borham, (“Debtor”), is an adult individuals with a place of residence located at 4 Nassau Boulevard, Prospect Park, PA 19076.
2. William C. Miller, is the duly appointed Chapter 13 Trustee and is currently acting in such capacity.

Jurisdiction and Venue

3. This matter is a core proceeding and this Court has jurisdiction pursuant to 28 U.S.C. § 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. Movant seeks relief pursuant to 11 U.S.C. § 362(d) and FRBP 4001 and 9014.

Factual Background

4. On or about 4/18/2018, Debtor filed a voluntary petition for relief pursuant to Chapter 13 of the Bankruptcy Code.

5. On or about (5/24/2013), Debtor purchased a 2012 Mitsubishi Outlander utiltiy 4D GT 3.0L V6, VIN# JA4JS4AX4CU001399, pursuant to a Retail Installment Contract (the "Contract") with the Movant, a true and correct copy of which is attached hereto as Exhibit A.

6. Movant has a secured interest in the 2012 Mitsubishi Outlander utiltiy 4D GT 3.0L V6, VIN# JA4JS4AX4CU001399, as evidenced by the Certificate of Title attached hereto as Exhibit B.

7. The Contract requires monthly payments of \$308.84, which amounts are due on or before the 8th of each month.

8. As of the date of this Motion, Debtor were in default of their payment obligations to Movant in the amount of \$1,235.36. Debtor is currently due for the payment due on 07/08/2018.

9. Debtor's Chapter 13 Plan states that payments to Movant will be made outside the Plan.

10. The gross balance due on the Contract is \$4,970.00.

11. The N.A.D.A value for the 2012 Mitsubishi Outlander utiltiy 4D GT 3.0L V6, VIN# JA4JS4AX4CU001399 is \$8,962.50. A true and correct copy of a printout showing that value is attached hereto as Exhibit C. Therefore there is minimal equity in the collateral, the Debtor is still responsible for making monthly payments to Movant.

12. Movant is entitled to relief from the automatic stay for cause, including the lack of adequate protection, because Debtor has failed to make post-petition payments to Movant. 11 U.S.C. §362(d)(1).

WHEREFORE, Movant, Fifth Third Bank, respectfully requests that this Honorable Court enter an Order, pursuant to 11 U.S.C. § 362(d), granting Movant relief from stay with respect to the 2012 Mitsubishi Outlander utiltiy 4D GT 3.0L V6, VIN# JA4JS4AX4CU001399.

Respectfully submitted,

BERNSTEIN-BURKLEY, P.C.

By: /s/ Keri P. Ebeck
Keri P. Ebeck, Esq.
PA I.D. # 91298
kebeck@bernsteinlaw.com
Suite 2200, Gulf Tower
Pittsburgh, PA 15219
Phone (412) 456-8112
Fax: (412) 456-8135

Counsel for Fifth Third Bank

Dated: October 12, 2018